



# City of Santa Barbara California

## PLANNING COMMISSION STAFF REPORT

**REPORT DATE:** July 13, 2006  
**AGENDA DATE:** July 20, 2006  
**PROJECT ADDRESS:** 40 Pine Drive (MST2004-00676)

**TO:** Planning Commission  
**FROM:** Planning Division, (805) 564-5470  
 Jan Hubbell, AICP, Senior Planner *JMH*  
 Kathleen Kennedy, Associate Planner *KK*

### I. SUMMARY

The Planning Commission reviewed the proposed project on March 9, 2006. After much discussion and public comment, the Planning Commission continued the item for a period of 90 days. Staff allocated the applicant additional time to address the concerns heard at the meeting. The applicant has since submitted a revised tentative subdivision map and additional information for consideration by the Planning Commission.

The discretionary applications required for this project are:

1. A Modification to allow Parcel 1 to have no street frontage instead of the required 60 feet or less than the required 60 feet if the private portion of Pine Drive becomes public (SBMC§28.15.080);
2. A Modification to allow Parcel 2 to have no street frontage instead of the required 60 feet. (SBMC§28.15.080);
3. A Public Street Waiver to allow the approval of a subdivision where access is provided by a private road that serves more than two lots (SBMC § 22.60.300); and
4. Tentative Subdivision Map for a merger of two lots and a subdivision to create two lots (SBMC§27.07).

### II. PROJECT DESCRIPTION

The project site consists of two parcels totaling 22,781 square feet in the E-3/PUD, One Family Residence and Planned Unit Development zones. Parcel A is an existing 20,839 square foot lot with one single family residence and a shed. Parcel B is an existing fifteen foot wide, 1,942 square foot lot that serves as an access driveway for Parcel A. Both parcels have access from Pine Drive along a private road.

The proposal consists of a merger of the two existing parcels and a subsequent subdivision to create two new parcels. The subdivision would result in one 11,216 square foot parcel (Parcel 1) and one 11,565 square foot parcel (Parcel 2). The existing single-family residence would be on Parcel 1 and a two-car garage would replace a dilapidated carport that was removed by the new owners. Although no development is currently proposed for Parcel 2, a building envelope is shown on the Tentative Parcel Map to illustrate how a development could be accommodated on the site.

### **III. DISCUSSION**

On March 9, 2006, the Planning Commission approved a continuance of the proposed project so that the applicant could return to the Planning Commission with additional information. The revisions to the tentative subdivision map and additional information submitted by the applicant are summarized below:

- *Increased turnaround area and driveway width:* In response to comments made at the hearing regarding traffic, the lack of an adequate turnaround area on Pine Drive and the width of the access driveway, the applicant has worked with the owner of 46 Pine Drive to prepare an Agreement in Principle (see Exhibit D). The owner of 46 Pine Drive has agreed to dedicate a ten foot wide easement (Easement 1) to the City to create a standard size hammerhead area (22 feet wide by 54 feet deep) for the purpose of providing a turnaround area for vehicles owned by residents and guests and for emergency service vehicles. Rather than a dedication to the City, Staff has written the condition to require that the applicant demonstrate that they hold said easement. In addition, the owner of 46 Pine Drive has agreed to dedicate a six foot wide easement (Easement 2) for the benefit of proposed Lots 1 and 2 which would result in the easement for the access driveway being twenty-one feet wide instead of fifteen feet wide.
- *Survey of fence and hedge along access road:* In response to comments made regarding the precise location of the existing fence and hedge along the access driveway adjacent to 38 Pine Drive, the applicant has prepared a survey that shows that the entire existing fence is located on the 38 Pine Drive parcel and the centerline of the hedge is located within the access driveway (see Exhibit E). With the dedication of the six foot wide easement discussed above, the access driveway could be shifted slightly north, resulting in a majority of the hedge being preserved along the driveway to maintain privacy.
- *Undergrounding of utilities:* The applicant has been in discussions with the neighbors regarding undergrounding of utility lines. The undergrounding of the utilities for the subject property would be rerouted to an existing pole on the west side of Pine Drive, removing the current service from the pole located at the northwest corner of the 2410 Pine Drive property. The property owners would be willing to share the utility trenches if the owners of 38 and 46 Pine Drive wish to underground their services at the same time.
- *House size inventory:* In response to concerns expressed regarding the size of any potential new residence on proposed Lot 2, the applicant has prepared a Pine Drive Neighborhood House Size Exhibit (see Exhibit F) outlining the sizes of the existing houses and garages in the neighborhood. The exhibit demonstrates that the parcels range in size from under 5,000 square feet to 1.3 acres while the home sizes range from 756 to 3,068 square feet. The applicant has

suggested that any proposed development on the proposed parcels not be restricted in size but rather be required to be approved by the Architectural Board of Review. Because the Neighborhood Preservation Ordinance is being updated and will likely result in more detailed review of a future home or addition to the existing home, Staff concurs and this provision has been added as a condition of approval for this project.

- *Neighborhood build out:* In response to comments made regarding the potential for other lots in the immediate vicinity to subdivide and, as a result, create an increase in traffic, the applicant also listed the sizes of the existing lots in Exhibit F and concluded that both 46 Pine Drive and 2411 Pine Drive may be able to subdivide into two lots each. Only one other lot (2430 Pine Drive) is larger than the subject property, with a possibility of being split into four lots. This would result in a potential increase of six residences in the vicinity; however, only one additional lot at 46 Pine Drive would gain access from the private portion of Pine Drive.
- *Flag lot configuration:* In response to comments made regarding the creation of a new flag lot, the applicant states that there are many flag lots in the area; therefore, the proposal does not set a precedent in the neighborhood, nor is it out of character with the neighborhood. Staff has reviewed maps in the area and there are a small number of flag lots that exist.

#### IV. RECOMMENDATION

Staff has reevaluated the recommendation made in the previous staff report and is now recommending denial of the project. Planning Staff concurs with Public Works Staff regarding the need to have the private portion of Pine Drive become a public street prior to the creation of any additional lots using that portion of Pine Drive. This is consistent with past practice by the City regarding private vs. public streets. Crucial to this position is the understanding that, if the project were to be approved with the condition that the road become public and, subsequently, the applicants were unable to obtain the public street easement from all the property owners of the private road, the Subdivision Map Act would preclude the City from withholding the recordation of the Parcel Map. Given this, Staff would not be assured that the road would become a public street. The existing road is not currently well-maintained and there are public utilities located underneath. By having this private road become a public street, the City would be able to properly protect the underground utilities and access, and would be responsible for any future repair and maintenance of the road.

Staff recommends that the Planning Commission deny the project because the Public Street Waiver findings cannot be made.

#### V. FINDINGS

##### A. STREET FRONTAGE MODIFICATIONS (SBMC§28.15.080)

To approve a modification for a parcel to have no street frontage, or less than the required street frontage, it must be found that the modification is consistent with the purposes and intent of the Zoning Ordinance and that it is necessary to secure an appropriate improvement on a lot, prevent unreasonable hardship, or promote uniformity of improvement.

**B. PUBLIC STREET WAIVER (SBMC§22.60.300)**

1. The private road will provide adequate access to the subject property and other properties using said roadway.
2. The private road and adjacent paved areas will provide adequate access for fire suppression vehicles as required by applicable fire regulations, including but not limited to turnaround area, width, grade and construction.
3. There is adequate provision for maintenance of the proposed private road by either of the following:
  - a. There is a recorded agreement that provides for adequate maintenance of said road, or
  - b. The owner of the subject property has agreed to adequately maintain said private road and said agreement has been or will be recorded prior to recordation of the parcel map.
4. The waiver is in the best interests of the City and will improve the quality and reduce the impacts of the proposed development.

**C. TENTATIVE SUBDIVISION MAP (SBMC§27.07.100)**

The proposed Tentative Subdivision Map is consistent with the General Plan and the Zoning Ordinance. The site is physically suitable for the proposed development and the density of development. The development is not likely to cause substantial environmental damage or serious public health problems nor conflict with easements, acquired by the public at large, for access through or use of property within the proposed development.

**Exhibits:**

- A. Conditions of Approval
- B. Tentative Parcel Map
- C. Applicant's letter dated June 28, 2006
- D. Agreement in Principal Between Property Owners
- E. Survey of Access Road
- F. Pine Drive Neighborhood House Size Exhibit
- G. Planning Commission Minutes dated March 9, 2006
- H. Planning Commission Staff Report dated March 9, 2006

## PLANNING COMMISSION CONDITIONS OF APPROVAL

40 PINE DRIVE  
MODIFICATIONS, PUBLIC STREET WAIVER AND TENTATIVE SUBDIVISION MAP  
JULY 20, 2006

In consideration of the project approval granted by the Planning Commission and for the benefit of the owner(s) and occupant(s) of the Real Property, the owners and occupants of adjacent real property and the public generally, the following terms and conditions are imposed on the use, possession and enjoyment of the Real Property:

- A. **Recorded Agreement.** Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property, the Owner shall execute an "Agreement Relating to Subdivision Map Conditions Imposed on Real Property", which shall be reviewed as to form and content by the City Attorney, Community Development Director and Public Works Director, recorded in the Office of the County Recorder, and shall include the following:
1. **Uninterrupted Water Flow.** The Owner shall provide for the uninterrupted flow of water through the Real Property including, but not limited to, swales, natural water courses, conduits and any access road, as appropriate. The Owner is responsible for the adequacy of any project-related drainage facilities and for the continued maintenance thereof in a manner that will preclude any hazard to life, health or damage to the Real Property or any adjoining property.
  2. **Approved Development.** The development of the Real Property approved by the Planning Commission on July 20, 2006 is limited to a subdivision to create two parcels (Parcel 1 would be 11,216 square feet and Parcel 2 would be 11,565 square feet) and the improvements shown on the Tentative Subdivision Map signed by the chairman of the Planning Commission on said date and on file at the City of Santa Barbara.
  3. **Noise Protection Requirements.** Any future development of the Real Property shall incorporate the recommendations of the March 2005 Acoustical Analysis prepared by Davey & Associates into the project design.
  4. **Recreational Vehicle Storage Limitation.** No recreational vehicles, boats or trailers shall be stored on the Real Property unless enclosed or concealed from view as approved by the Architectural Board of Review (ABR).
  5. **Maintenance of Drainage System.** Owner shall be responsible for maintaining the drainage system in a functioning state. Should any of the project's surface or subsurface drainage structures fail or result in increased erosion, the Owner shall be responsible for any necessary repairs to the system and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Community Development Director to determine if an amendment or a new Building permit is required to authorize such work.

6. **Required Private Covenants.** The Owners shall record in the official records of Santa Barbara County either private covenants, a reciprocal easement agreement, or a similar agreement which, among other things, shall provide for all of the following:
  - a. **Private Driveway and Turnaround Area Maintenance.** An express method for the appropriate and regular maintenance of the private driveway, turnaround area and other similar shared or common facilities or improvements of the development, which methodology shall also provide for an appropriate cost-sharing of such regular maintenance among the various owners of the parcels.
  - b. **Garages Available for Parking.** A covenant that includes a requirement that all garages be kept open and available for the parking of vehicles owned by the residents of the property in the manner for which the garages were designed and permitted.
  - c. **Trash and Recycling.** Adequate space shall be provided and maintained for trash and recycling purposes.
  - d. **Covenant Enforcement.** A covenant that permits each owner to contractually enforce the terms of the private covenants, reciprocal easement agreement, or similar agreement required by this condition.
- B. **Public Works Submittal Prior to Parcel Map Approval.** The Owner shall submit the following, or evidence of completion of the following, to the Public Works Department for review and approval, prior to processing the approval of the Parcel Map for the project:
  1. **Parcel Map.** The Owner shall submit to the Public Works Department for approval, a Parcel Map prepared by a licensed land surveyor or registered Civil Engineer. The Parcel Map shall conform to the requirements of the City Survey Control Ordinance.
  2. **Parcel Map Dedications.** Easements (as shown on the approved Tentative Subdivision Map) and shown on the Parcel Map or as a separate concurrent instrument subject to approval by the Public Works Department and/or the Building and Safety Division:
    - a. Access and Utility Easement (water, sewer, storm drainage and other utility purposes) for vehicles, pedestrians and utilities through Parcel 1 for the benefit of Parcel 2.
    - b. "Irrevocable Offer of Street Easement Deed". To the extent of Owner's interest in the existing private portion of Pine Drive, Owner shall irrevocably offer to dedicate to the City a public street easement of 20 feet in width and approximately 175 feet in length, located north of the public portion of Pine Drive.

3. **Easement 1.** Owner shall demonstrate that they hold an easement for a hammerhead turnaround area approximately ten feet in width and 44 feet in length as shown on the approved Tentative Subdivision Map. Said area shall be developed as a turnaround area and shall remain open and available as such for public use.
  4. **Easement 2.** Owner shall demonstrate that they hold an easement for access, drainage, utilities and other incidental purposes approximately six feet in width and 82 feet in length as shown on the approved Tentative Subdivision Map.
  5. **Water Rights Assignment Agreement.** The Owner shall assign to the City of Santa Barbara the exclusive right to extract ground water from under the Real Property. Said agreement will be prepared by Engineering Division Staff for the Owner's signature.
  6. **Drainage Calculations** The Owner shall submit drainage calculations justifying that the existing on-site and proposed on-site drainage system adequately conveys a minimum of a 25-year storm event.
  7. **Off-Site Public Street Improvement Plans.** The Owner shall submit building plans for pavement reconstruction of the private portion of Pine Drive, turnaround area and the access easement shown on the Parcel Map. As determined by the Public Works Department, the improvements shall include connection to City water and sewer mains, preserve and/or reset any existing contractor stamps or survey monuments, and provide adequate positive drainage from site. The building plans shall be prepared by a registered civil engineer or licensed architect and reviewed and signed by the City Engineer.
  8. **Land Development Agreement.** The Owner shall submit an executed Agreement for Land Development Improvements, prepared by Engineering Division Staff, an Engineer's Estimate, signed and stamped by a registered civil engineer, and securities for construction of improvements prior to execution of the agreement.
- C. **Design Review Required.** All new development on Parcels 1 and 2 shall be subject to the review and approval of the Architectural Board of Review (ABR).
- D. **Public Works Requirements Prior to Building Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following to the Public Works Department for review and approval, prior to the issuance of a Building Permit for the project.
1. **Recordation of Parcel Map and Concurrent Agreements.** Owner shall provide evidence of recordation of the approved Parcel Map, the Agreement Relating to Subdivision Map Conditions Imposed on Real Property, and any separately recorded easements or irrevocable offers of dedication to the Public Works Department.

2. **Approved Public Improvement Plans and Concurrent Issuance of Public Works Permit.** Upon acceptance of the approved public improvement plans, a Public Works permit shall be issued concurrently with a Building permit.
- E. **Community Development Requirements Prior to Building or Public Works Permit Application/Issuance.** The following shall be finalized prior to, and/or submitted with, the application for any Building or Public Works permit:
1. **Contractor and Subcontractor Notification.** The Owner shall notify in writing all contractors and subcontractors of the site rules, restrictions and Conditions of Approval. Submit a copy of the notice to the Planning Division.
- F. **Building Permit Plan Requirements.** The following requirements/notes shall be incorporated into the construction plans submitted to the Building and Safety Division for Building permits.
1. **Private Road Improvements.** The private road and the turnaround area shall be constructed to the standards provided in the Subdivision Design and Improvement Standards and as approved by the Public Works Director.
  2. **Noise Protection Requirements.** Any future development of the Real Property shall incorporate the recommendations of the March 2005 Acoustical Analysis prepared by Davey & Associates into the project design.
  3. **Conditions on Plans/Signatures.** The final Planning Commission Resolution shall be provided on a full size drawing sheet as part of the drawing sets. Each condition shall have a sheet and/or note reference to verify condition compliance. If the condition relates to a document submittal, indicate the status of the submittal (e.g., Parcel Map submitted to Public Works Department for review). A statement shall also be placed on the above sheet as follows: The undersigned have read and understand the above conditions, and agree to abide by any and all conditions which is their usual and customary responsibility to perform, and which are within their authority to perform.

Signed:

_____ Property Owner	_____ Date
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_____ Contractor	_____ Date	_____ License No.
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_____ Architect	_____ Date	_____ License No.
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_____ Engineer	_____ Date	_____ License No.
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G. **Construction Implementation Requirements.** All of these construction requirements shall be carried out in the field for the duration of project construction for the driveway and any future home on the new parcels:

1. **Construction-Related Truck Trips.** Construction-related truck trips shall not be scheduled during peak hours (7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.). The purpose of this condition is to help reduce truck traffic on adjacent streets and roadways.
2. **Construction Hours.** Construction (including preparation for construction work) is prohibited Monday through Friday before 7:00 a.m. and after 5:00 p.m., and all day on Saturdays, Sundays and holidays observed by the City of Santa Barbara, as shown below:

New Year's Day	January 1 <sup>st</sup> *
Martin Luther King's Birthday	3 <sup>rd</sup> Monday in January
Presidents' Day	3 <sup>rd</sup> Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4 <sup>th</sup> *
Labor Day	1 <sup>st</sup> Monday in September
Thanksgiving Day	4 <sup>th</sup> Thursday in November
Following Thanksgiving Day	Friday following Thanksgiving Day
Christmas Day	December 25 <sup>th</sup> *

\*When a holiday falls on a Saturday or Sunday, the preceding Friday or following Monday, respectively, shall be observed as a legal holiday.

When, based on required construction type or other appropriate reasons, it is necessary to do work outside the allowed construction hours, contractor shall contact the Chief of Building and Safety to request a waiver from the above construction hours, using the procedure outlined in Santa Barbara Municipal Code §9.16.015 Construction Work at Night. Contractor shall notify all residents within 300 feet of the parcel of intent to carry out night construction a minimum of 48 hours prior to said construction. Said notification shall include what the work includes, the reason for the work, the duration of the proposed work and a contact number.

3. **Construction Parking/Storage.** Construction parking and storage shall be provided as follows:
  - a. During construction, free parking spaces for construction workers and construction shall be provided on-site or off-site in a location subject to the approval of the Public Works Director.
  - b. Storage or staging of construction materials and equipment within the public right-of-way is prohibited.

4. **Construction Best Management Practices (BMPs).** Construction activities shall address water quality through the use of BMPs, as approved by the Building and Safety Division.
  5. **Construction Contact Sign.** Immediately after Building permit issuance, signage shall be posted at the points of entry to the site that list the contractor(s) name, contractor(s) telephone number, work hours, site rules, and construction-related conditions, to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval.
- H. **Prior to Certificate of Occupancy.** Prior to issuance of the Certificate of Occupancy, the Owner of the Real Property shall complete the following:
1. **Repair Damaged Public Improvements.** Repair any damaged public improvements (curbs, gutters, sidewalks, etc.) subject to the review and approval of the Public Works Department. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.
  2. **Complete Public Improvements.** Public improvements as shown on the building plans.
  3. **Check Valve/ Anti-backflow Device).** The owner shall request a cross connection inspection by the Public Works Water Reclamation/Cross connection Specialist.
- I. **Litigation Indemnification Agreement.** In the event the Planning Commission approval of the Project is appealed to the City Council, Applicant/Owner hereby agrees to defend the City, its officers, employees, agents, consultants and independent contractors ("City's Agents") from any third party legal challenge to the City Council's denial of the appeal and approval of the Project, including, but not limited to, challenges filed pursuant to the California Environmental Quality Act (collectively "Claims"). Applicant/Owner further agrees to indemnify and hold harmless the City and the City's Agents from any award of attorney fees or court costs made in connection with any Claim.
- Applicant/Owner shall execute a written agreement, in a form approved by the City Attorney, evidencing the foregoing commitments of defense and indemnification within thirty (30) days of the City Council denial of the appeal and approval of the Project. These commitments of defense and indemnification are material conditions of the approval of the Project. If Applicant/Owner fails to execute the required defense and indemnification agreement within the time allotted, the Project approval shall become null and void absent subsequent acceptance of the agreement by the City, which acceptance shall be within the City's sole and absolute discretion. Nothing contained in this condition shall prevent the City or the City's Agents from independently defending any Claim. If the City or the City's Agents decide to independently defend a Claim, the City and the City's Agents shall bear their own attorney fees, expenses and costs of that independent defense.

PLANNING COMMISSION CONDITIONS OF APPROVAL  
40 PINE DRIVE  
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**NOTICE OF TENTATIVE SUBDIVISION MAP TIME LIMITS:**

The Planning Commission's action approving the Tentative Map shall expire two (2) years from the date of approval. The subdivider may request an extension of this time period in accordance with Santa Barbara Municipal Code §27.07.110 or the provisions of the California Subdivision Map Act.









3 West Carrillo Street, Suite 205 Santa Barbara, CA 93101  
ph: 805.962.4611 fax: 805.962.4161

P.N. 04-008.01

June 28, 2006

City of Santa Barbara  
Planning Commission  
Attn: Kathleen Kennedy, Assistant Planner  
630 Garden Street  
Santa Barbara, CA 93101

Subject: Response and Revision to Application Submittal  
APN 049-100-019; Pawl Property  
40 Pine Drive, Santa Barbara  
MST2004-00676

Dear Ms. Kennedy:

Enclosed herewith please find the following items pertaining to our revised application for a formal Development Application Review for a proposed merger and resubdivision of two (2) existing parcels:

- One (1) Pine Drive Neighborhood House Size Exhibit Chart;
- One (1) copy of an Agreement in Principal, pertaining to Proposed Easements to be conveyed by the neighbor at 46 Pine Drive, signed May 18, 2006;
- Ten (10) copies of a Survey of Access Road in Relation to 38 Pine Drive, dated May 2006;
- One (1) set of 8½ x 11 copies of a proposed two (2) parcel subdivision Tentative Map (3-Sheets), Revised and dated May 2006; and
- Ten (10) sets of large format copies of a proposed two (2) parcel subdivision Tentative Map (3-Sheets), Revised and dated May 2006.

**Purpose of Request**

The purpose of the application request is to seek a merger and resubdivision of two (2) existing parcels totaling 22,781 square foot into two (2) parcels which will be 11,216 sq.ft. and 11,565 sq.ft. in size, respectively.

### **Previous Planning Commission Hearing**

The proposed lot split was reviewed by the Planning Commission on March 9, 2006. At that meeting a number of comments were expressed by both the public and the Commissioner's regarding the proposal. In summary, the key points included:

- The lack of a turn-around on Pine Drive;
- The need for additional survey work;
- The potential for additional lot splits in neighborhood;
- The need for an inventory of house sizes in neighborhood;
- The potential for under-grounding neighboring utilities; and
- The proposed flag lot configuration.

### **Applicant Response and Revised Application**

Turn-Around - Subsequent to the Commission hearing, the applicant has diligently pursued appropriate responses to the previous discussion point. A major emphasis was placed on the need for turn-around space at or near the northern extent of Pine Drive. As such, the Pawl's have been able to execute an Agreement in Principal with Mr. David Delisle, owner of the property at 46 Pine Drive in order to allow for a standard size hammerhead near the terminus of Pine Drive. As indicated on the attached plans, a combination of easements (to be offered to the City) have been proposed, which together with the existing width of Pine Drive would create an area of 22 feet wide by 54 feet deep for a turn-around. This area will allow for turn-around of owners vehicles, neighborhood and guest cars, and most importantly for emergency service vehicles.

Mr. Delisle has agreed to convey one easement of 10 feet in width to the City, and a second easement of 6 feet in width to benefit the Proposed Lots 1 and 2 of the subdivision. The combination of these two easements also assist with the alignment of the access drive to the proposed subdivision site in order to maintain as much of the existing hedgerow on the southern side of the existing access to 40 Pine Drive. As detailed in the attached Survey of Access Road, the Pawl's existing property line is clearly south of the centerline of the hedgerow. By reconfiguring the access drive a few feet to the north, then slightly tapering the easterly portion of the drive, we believe that the majority of the existing hedgerow adjacent to the house at 38 Pine Drive can be maintained, while providing the necessary access for the proposed lots.

Utilities - Additional discussions have taken place with the neighbors in order to facilitate the under-grounding of utility services for the neighboring properties at 38, 46 and 2410 Pine Drive. The applicant has rerouted the under-grounding of the utilities for the proposed subdivision to an existing pole on the west side of Pine Drive (demonstrated on the revised plans). This would remove current service to 40 Pine Drive from the pole located at the northwest corner of the 2410 Pine Drive property. In doing so, only the



services for 38 and 46 Pine Drive would remain. If the neighboring owners can agree to re-route their respective services, then the Pawl's are willing to assist in this off-site effort, and would agree to share utility trenching and routing to facilitate the under-grounding of these services. The Pawl's project would be conditioned to repave the existing private portion of Pine Drive, and it would make sense to combine that effort with the trenching, routing and under-grounding of these utilities at the same time.

Neighborhood Buildout - With respect to the additional lot split buildout potential of the neighborhood, the applicant has performed a cursory analysis of the existing lots on Pine Drive. It appears that 46 and 2411 Pine Drive might be able to subdivide and create one additional lot each. However, both of these lots are currently improved and may require relocation or removal of existing structures to feasibly propose a split. Certainly the largest lot in the neighborhood is that of 2430 Pine Drive, and this property owner has recently considered a proposal for four additional lots. It does not appear that any other parcels in the immediate Pine Drive vicinity have the required amount of lot area to propose a subdivision.

House Size Inventory - The applicant has also prepared a House Size Exhibit which details the square footage of existing houses and garages within the neighborhood and includes the newly developed Greenwell Acres properties. Information was gathered for all 51 properties in the Street Files and Archive Plans at the City's Record Division. The parcels sizes within the area range from under 5,000 square feet to 1.3 acres, while the home sizes range from 756 to 3,068 square feet. Please see the attached list for parcel specific details. A portion of the previous Commission discussion focused on the potential need to limit the ultimate buildout size of the proposed lots, in part due to the vehicle movement constraints at the end of Pine Drive. We believe that the addition of the full size hammerhead at the access point for this subdivision adequately addresses this issue. Further, we would suggest that any new development proposed for these resultant lots be required to be reviewed and approved by the City's Architectural Design Review Board. This approach would provide for interested parties in the neighborhood to participate in the review of structures at the time new structures are proposed for either of the lots, and further this review and approval process would require that a finding be made of compatibility with the surrounding neighborhood by the ABR.

Lot Configuration - Lastly, some Commissioner's questioned the flag lot configuration of the proposed subdivision. There needs to be a recognition that all of the existing lots that are currently served by the private portion of Pine Drive are in essence flag lots. They all have easements appurtenant to their properties for access and utilities, and they all are required to utilize other properties to get to their respective homes. Any new lot of any configuration which would take access off of this private portion of Pine Drive would also be considered a flag lot, just as this subdivision is proposing. Further, a number of newly created lots within the Greenwell Acres project were approved with similar configurations. We do not believe that this proposed configuration sets a precedent in the neighborhood, nor is out of character with the neighborhood.

### Summary

We have proposed a project which appears to be consistent with density of the existing built neighborhood, and lot size requirements of the General Plan density, and the Zoning Ordinance. Two parcels currently exist on the property, and two parcels will result from this application. Both proposed parcels meet the slope density requirements of the E-3 Zone District. As an in-fill project we believe that we are fully consistent and compatible with the surrounding uses, in fact the resulting lots sizes will be larger than most properties in the immediate neighborhood. Also, as an in-fill project we are of the opinion that no significant environmental impacts would result from this project.

Further, the project has been revised to now include a full size hammerhead which will ease the vehicular movement constraints at the northern end of the road. The access drive to the proposed subdivision has been realigned to maintain the existing hedgerow adjacent to the house on the south side of the drive. The applicants have offered to cooperate with the off-site trenching, re-routing and under-grounding of utilities for the benefit of their neighbors. And any new structure proposed would be required to seek the review and approval of the ABR, ensuring future participation by the neighborhood and compatibility findings by the City.

In total, the Pawl's have provided for the repavement and future maintenance of the existing portion of Pine Drive, a new hammerhead for emergency service vehicles (with the very much appreciated assistance and cooperation of Mr. Delisle), an additional fire hydrant near the end of the roadway, and under-grounding of utilities both on and off-site. All of these project attributes benefit the neighbors and attempt to solve some of the issues that have existing in this neighborhood for many decades. We believe that an objective analysis and review will confirm this perspective. Thank you for your consideration.

If you have any questions or wish to discuss this project further, please do not hesitate to contact me.

Very truly yours,  
L & P CONSULTANTS



Brent Daniels  
Project Manager

cc: Justin Pawl w/enc.

AGREEMENT IN PRINCIPAL  
Between Property Owners of  
40 Pine Drive (APN 049-100-019) and  
46 Pine Drive (APN 049-100-014)

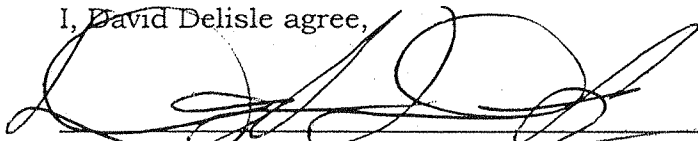
The intent of this document is to confirm our agreement regarding proposed easements to be granted in order that certain land area from 46 Pine Drive can be used for access, drainage, utilities, and other incidental purposes.

Specifically, David Delisle, the owner of the property known as 46 Pine Drive hereby agrees to grant two (2) separate easements as shown on Exhibit A. Easement 1 is to be granted as a dedication to the City of Santa Barbara for purposes of a hammerhead turn-around area, access, drainage, utilities, and other incidental purposes, commonly known as public street purposes. Easement 2 is to be granted for purposes of access, drainage, utilities, and other incidental purposes for the benefit of the Lots 1 and 2 of the Proposed Tentative Parcel Map at 40 Pine Drive.

It is further agreed that said easements will only be conveyed subsequent to an approval of the Proposed Tentative Parcel Map at 40 Pine Drive, currently being processed at the City of Santa Barbara.

The undersigned do hereby agree in principal that if the City of Santa Barbara approves the Tentative Parcel Map at 40 Pine Drive, then said Easements 1 and 2 shall be conveyed for said purposes, consistent with the City's conditions of approval.

I, David Delisle agree,



Owner 46 Pine Drive, Santa Barbara, CA 93109

Date:

5/18/06

I, Justin Pawl agree,

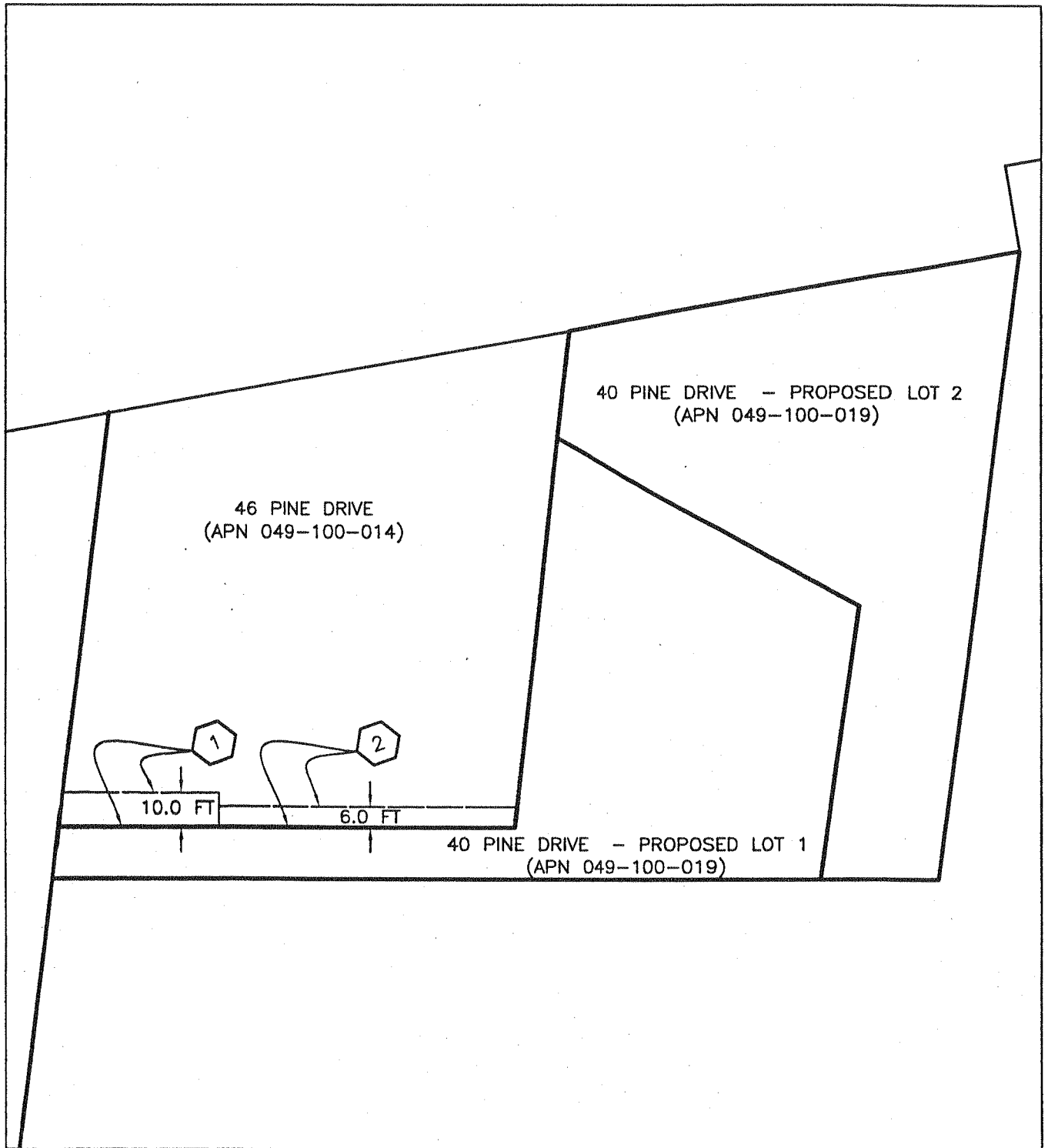


Owner 40 Pine Drive, Santa Barbara, CA 93109

Date:

5/18/06

Attachment: Exhibit A



## EXHIBIT A



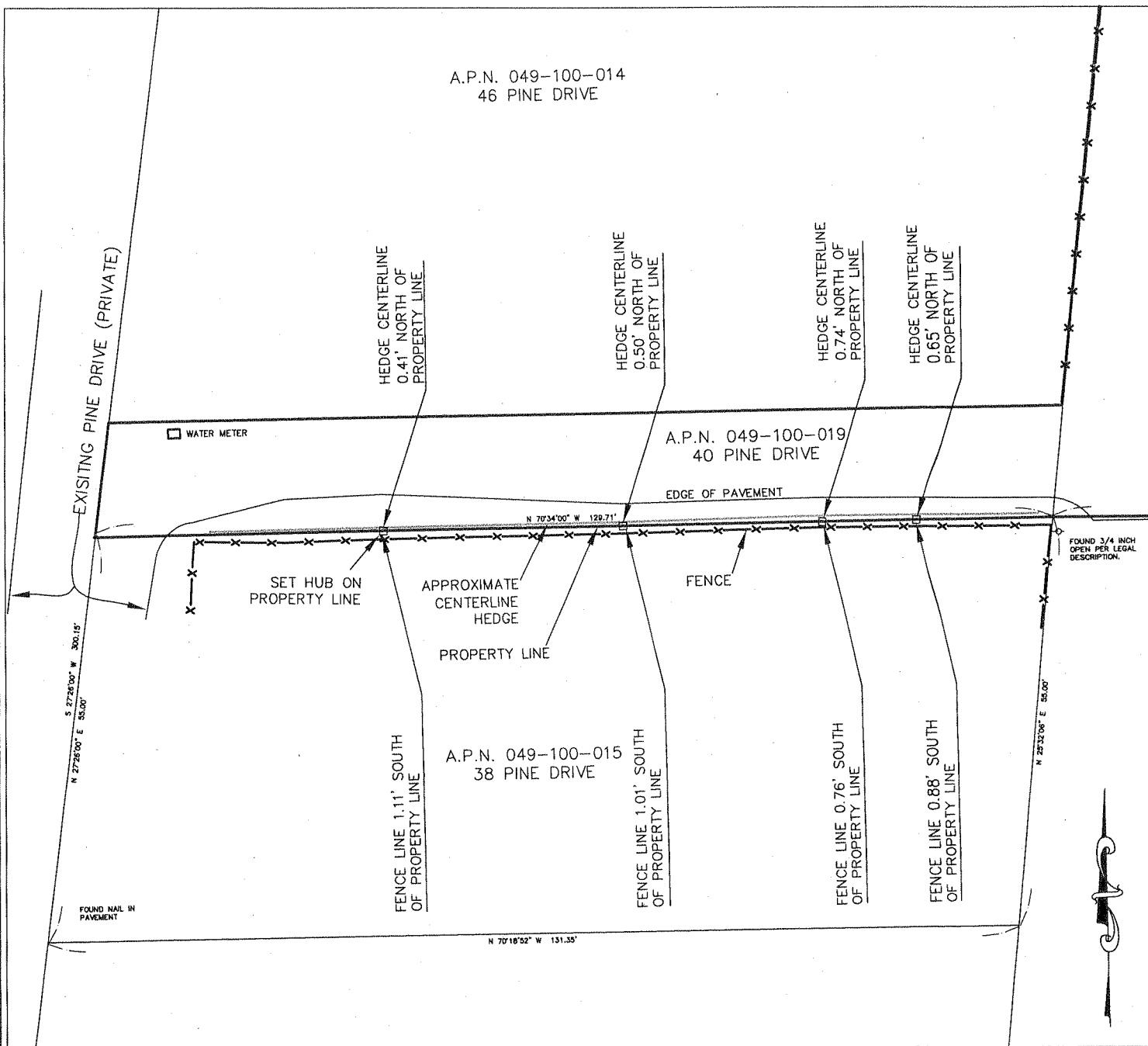
3 WEST CARRILLO STREET  
SUITE 205  
SANTA BARBARA, CA 93101  
(805) 962-4611

P.N. 04-008.01

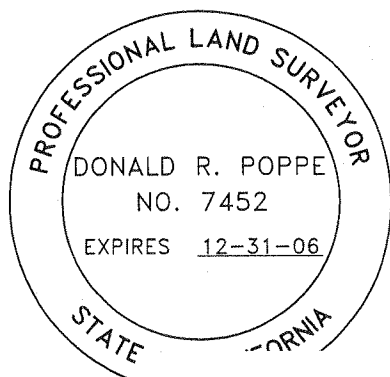
1"=40'

AGREEMENT IN PRINCIPAL  
40 and 46 PINE DRIVE  
PROPOSED EASEMENTS 1 and 2  
CITY OF SANTA BARBARA, CALIFORNIA

TPM4.DWG



3 WEST CARRILLO STREET  
SUITE 205  
SANTA BARBARA, CA 93101  
(805) 962-4611



# 40 PINE DRIVE SURVEY OF ACCESS ROAD IN RELATION TO 38 PINE DRIVE

SANTA BARBARA, CALIFORNIA

P.N. 04-008.01

1"=20'

EXHIBIT E

Pawl Access



**PINE DRIVE NEIGHBORHOOD HOUSE SIZE EXHIBIT**

<b>House Size Chart (AU=Affordable Unit)</b>	<b>House (SqFt)</b>	<b>Garage (SqFt)</b>	<b>Approx. Lot Size (SqFt)</b>
11 Pine Drive	2092	464	9,000
12 Pine Drive	1308	n/a	7,000
17 Pine Drive	1664	434	< 5,000
22 Pine Drive	1901	465	9,000
24 Pine Drive	1040	n/a	7,000
25 Pine Drive	1559	477	< 5,000
27 Pine Drive	756	n/a	< 5,000
29 Pine Drive	1478	n/a	< 5,000
30 Pine Drive	1086	154	7,000
32 Pine Drive	1145	264	7,000
33 Pine Drive	838	120	5,000
37 Pine Drive	972	172	5,000
38 Pine Drive	950	244	7,000
40 Pine Drive	1433	n/a	22,000
41 Pine Drive	840	120	5,000
43 Pine Drive	2699	n/a	9,000
46 Pine Drive	1335	306	18,000
2410 Pine Drive	1805	480	10,000
2411 Pine Drive	1875	400	17,000
2419 Pine Drive	1275	525	9,000
2420 Pine Drive	1145	264	10,000
2425 Pine Drive	1619	525	8,000
2430 Pine Drive	3068	680	58,000
2414 Modoc	1323	216	18,000
2418 Modoc	1080	230	6,000
2420 Modoc	875	607	10,000
2424 Modoc	1456	n/a	6,000
8 Greenwell	2044	474	10,000
10 Greenwell	2092	464	7,000
11 Greenwell	2044	474	6,000
12 Greenwell	2044	474	8,000
14 Greenwell	2044	474	7,000
15 Greenwell	2092	464	7,000
16 Greenwell	2429	438	8,000
17 Greenwell (AU)	1741	419	7,000
18 Greenwell	2429	438	7,000
19 Greenwell	2429	438	6,000
21 Greenwell (AU)	1741	419	7,000
23 Greenwell	2044	474	6,000
25 Greenwell (AU)	1741	419	6,000
27 Greenwell (AU)	1186	413	6,000
29 Greenwell (AU)	1186	413	< 5,000
31 Greenwell (AU)	1186	413	< 5,000
33 Greenwell (AU)	1186	413	< 5,000
35 Greenwell (AU)	1186	413	6,000
37 Greenwell	2429	438	7,000
39 Greenwell	2429	438	7,000
41 Greenwell	2429	438	7,000
43 Greenwell	2429	438	8,000
45 Greenwell	2429	438	8,000
47 Greenwell	2044	474	7,000





B. Announcements and appeals.

Ms. Hubbell made the following announcements:

1. The Veronica Meadows appeal was heard by City Council on Wednesday, March 7, 2006, and was continued for two weeks.
2. The 523-531 Chapala Street appeal will be heard by City Council next week. Commissioner Jacobs will represent the Planning Commission.
3. Kathleen Kennedy has been promoted to Associate Planner.

C. Comments from members of the public pertaining to items not on this agenda.

Chair Jostes opened the public hearing at 1:07 P.M. With no one wishing to speak, the public hearing was closed at 1:07 P.M.

**II. NEW ITEMS:**

**ACTUAL TIME: 1:07 P.M.**

**A. APPLICATION OF BRENT DANIELS, L AND P CONSULTANTS, AGENT FOR JUSTIN J. AND MICHELLE M. PAWL, PROPERTY OWNERS, 40 PINE DRIVE, APN 049-100-019, E-3/PUD, ONE FAMILY RESIDENCE AND PLANNED UNIT DEVELOPMENT ZONES, GENERAL PLAN DESIGNATION: RESIDENTIAL, FIVE UNITS/ACRE, (MST2004-00676)**

The proposal consists of a merger of two existing parcels and a subsequent subdivision to create two new parcels. Parcel A is an existing 20,839 square foot lot that contains one single family residence and a shed. Parcel B is an existing 1,942 square foot lot that serves as an access driveway for Parcel A. Both parcels have access along an existing private driveway to Pine Drive. The total lot area of both parcels is 22,781 square feet. The subdivision would result in one 11,216 square foot parcel and one 11,565 square foot parcel. A recommendation to allow the existing private driveway connecting to Pine Drive to become a public street will be considered.

The discretionary applications required for this project are:

1. A Modification to allow Parcel 1 to have no street frontage instead of the required 60 feet or less than the required 60 feet if the private portion of Pine Drive becomes public (SBMC§28.15.080);
2. A Modification to allow Parcel 2 to have no street frontage instead of the required 60 feet. (SBMC§28.15.080);
3. A Public Street Waiver to allow the approval of a subdivision where access is provided by a private driveway that serves more than two lots (SBMC § 22.60.300); and
4. Tentative Subdivision Map for a merger of two lots and a subdivision to create two lots (SBMC§27.07).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15315 (Minor Land Divisions).

Case Planner: Kathleen Kennedy, Associate Planner  
Email: [kkennedy@santabarbarca.gov](mailto:kkennedy@santabarbarca.gov)

Kathleen Kennedy, Associate Planner, gave the Staff presentation.

Brent Daniels, L & P Consultants, gave the presentation for the applicant.

Commissioners' comments and questions:

1. Asked if the permission of all the residents would be needed for the road to be repaved and maintained.
2. Asked if the project would require that the property owner be responsible for the indefinite maintenance of the common private road.
3. Asked for history of the smaller of the two parcels.
4. Asked how the applicant sees the project moving forward with a road that is to be maintained without City involvement. Asked detailed questions about how the City would have assurances that road would be maintained to City Standards, including from future property owners and City enforcement.
5. Asked Staff to elaborate on the noise contours from the railroad and freeway.
6. Asked Staff why modifications are necessary for improvement.

Ms. Kennedy stated that the permission of all residents was needed for changes to the private road. Mr. Vincent added that it depends upon how the existing easements are written. The applicant should address the interest held in the private road and determine whether the applicant has sufficient interest to improve and maintain the private road.

Mr. Daniels said that his understanding from the Staff report is that the property owner is required to pave and maintain the common private drive. Mr. Daniels stated that there are efforts being made with all neighbors to explain the project. Both sides of the road have been used for over 80 years by all residents. Having access provides the applicant with the right to maintain the road. If the City desires for this private road to be a public road, then all ten property owners would need to concur. The proposal includes having the road constructed and maintained to City standards.

Mr. Daniels explained the history of the parcels.

Mr. Vincent stated that the City tries to stay out of private property disputes. Four findings must be made in order to approve a public street waiver, one of which is that adequate provisions have been made for the future maintenance of the private street. The applicant has agreed to construct the road to current City standards and to maintain the road to these standards in the future. Future owners of the subdivided lots would be required to maintain the road in accordance with the terms of an

agreement that would be recorded in their chain of title. Mr. Vincent stated that the enforcement of the road maintenance would not be complicated and would not involve significant legal action.

Loree Cole, Supervising Civil Engineer, stated that if the road remained private and owner did not maintain the road, the City could repair the road and the property owners would be required to pay the cost.

Ms. Kennedy addressed the decibel range for the railroad and freeway.

Ms. Hubbell explained the street frontage modifications.

Commissioner Mahan arrived at 1:35 P.M.

Chair Jostes opened the public hearing at 1:48 P.M.

The following people spoke in support of the project:

1. David DeLisle: Supports project; disputes neighbors contentions that easements extend further to north.

The following people spoke in opposition to the project:

1. Don Adams: Future development; private road use
2. Paul Moore: Disputes location of private driveway and property lines
3. Martha Hogan: Disputes location of property lines on maps; private road needs widening.
4. Alex Fuhrer: Increase in noise
5. Laurie Nance: Noise/traffic

With no one else wishing to speak, the public hearing was closed at 2:00 P.M.

Commissioners' comments:

1. Asked Staff if, in the event of future development, the road agreement would be amended.
2. Asked Staff about lot line accuracy and if Staff is satisfied.
3. Asked the applicant if a field survey was done for the project site.
4. Asked Staff what is the minimum width required for a new public City street. Asked if parking was allowed on the private road.
5. Asked why the Staff Hearing Officer would not review this two lot subdivision.
6. Asked about the potential for parcel one to provide easement to parcel two and no others. Asked if a horseshoe loop would continue to be infeasible.
7. Asked about the undergrounding of utilities.

8. Asked Staff for input from the Fire Department. Asked about adequate turnaround for Fire Department vehicles.
9. Supports project with amended conditions; regarding ABR review, guest parking, and undergrounding of utilities; there is a need for infill housing. Concur a survey is needed.
10. Noted that granny units could be now added and have an impact on the street without a review by Planning Commission.
11. Majority of Commissioner's would like to see a field survey of property lot lines.
12. The consensus of Commissioners acknowledges that creating a flag lot on a flag lot compounds a difficult situation.
13. Acknowledges opposition by the neighborhood, but finds the project makes contributions to the neighborhood: fire hydrant, fire department turnaround, road paving and maintenance.
14. Acknowledges efforts to address access problems but are not enough to mitigate the problematic noise exposure and insufficient parking. Cannot make the street frontage modification findings for the project.

Mr. Vincent stated that if the road was not a public road at the time of future development, a public street waiver would be needed.

Ms. Hubbell addressed possible future subdivisions in the area and that it still would be unlikely for many of the lots to split. However, secondary units are allowed by right, if requirements are met.

Mr. Daniels spoke to the survey information, how it is conducted, and stated that the only survey conducted was solely for the applicant's property. Therefore, he cannot address inaccuracies of other lot lines. Mr. Daniels replied that no field survey was done.

Stacey Wilson, Associate Transportation Planner, stated that there is a range for the width of City streets depending on factors, such as parking. Frequently there are 20 foot wide travel lanes and 8 foot wide parking lanes. A complete analysis would require knowledge of the intent of the street. Ms. Wilson stated that the City does not have jurisdiction over parking on a private road.

Ms. Hubbell stated that, when there is a request for a public street waiver as part of a two lot subdivision, it will come before the Planning Commission, instead of the Staff Hearing Officer.

Ms. Wilson stated that the horseshoe loop is not a dead issue. It is inappropriate for Staff to ask applicant for easements since the adjoining property is not a part of this applicant's proposal.

Mr. Daniels stated that, according to the City's ordinance, the applicant would have to underground their current overhead utilities, but there is a pole presently used by the applicant and two neighbors, on neighboring property and beyond the scope of their control. Cooperation could be sought from the other neighbors for rerouting their connections off of the pole and the removal of the pole.

Gina Sunseri, Santa Barbara Fire Department, stated that there was a variance granted to allow a 15 foot wide roadway access in return for fire sprinklers for the house. The applicant's driveway could be used for turnaround by the Fire Department. Ms. Hubbell added that there is presently no turnaround and the project would include an easement that could be used by the Fire Department in a hammerhead approach and benefit other properties, as well.

**MOTION: Thompson/Larson**

Deny the project without prejudice.

This motion carried by the following vote:

Ayes: 2 Noes: 3 (Myers, Jostes, Jacobs) Abstain: 2 (White, Mahan) Absent: 0

The Commission asked the applicant if a continuance would be desired.

Mr. Daniels said that a continuance would be desired, but only with more input from Commissioners.

**MOTION: Jacobs/Mahan**

Approve a continuance of the project for not more than 90 days.

Commissioner's comments:

1. Commissioners need to have more information on the number of potential bedrooms, building envelopes, and associated impacts.
2. Would like another walk through of the neighborhood. Also, applicants should work with the neighborhood.
3. Does not believe that a continuance is going to make a difference.
4. Commission needs to look at the potential build-out of the whole neighborhood and not just the applicant's project.
5. Would like to see small houses. Size, bulk, scale, and visibility are not the issue here. Look at house size and number of bedrooms.

Mr. Daniels inquired on the acceptable house size range.

Ms. Hubbell suggested the applicant look at sizes of other homes in neighborhood.

This motion carried by the following vote:

Ayes: 7 Noes: 0 Abstain: 0 Absent: 0

**CONCEPT REVIEW:**

**ACTUAL TIME: 2:45 P.M.**





# City of Santa Barbara California

## PLANNING COMMISSION STAFF REPORT

**REPORT DATE:** March 2, 2006  
**AGENDA DATE:** March 9, 2006  
**PROJECT ADDRESS:** 40 Pine Drive (MST2004-00676)

**TO:** Planning Commission  
**FROM:** Planning Division, (805) 564-5470  
 Jan Hubbell, AICP, Senior Planner *JH*  
 Kathleen Kennedy, Assistant Planner *KK*

### **I. SUMMARY**

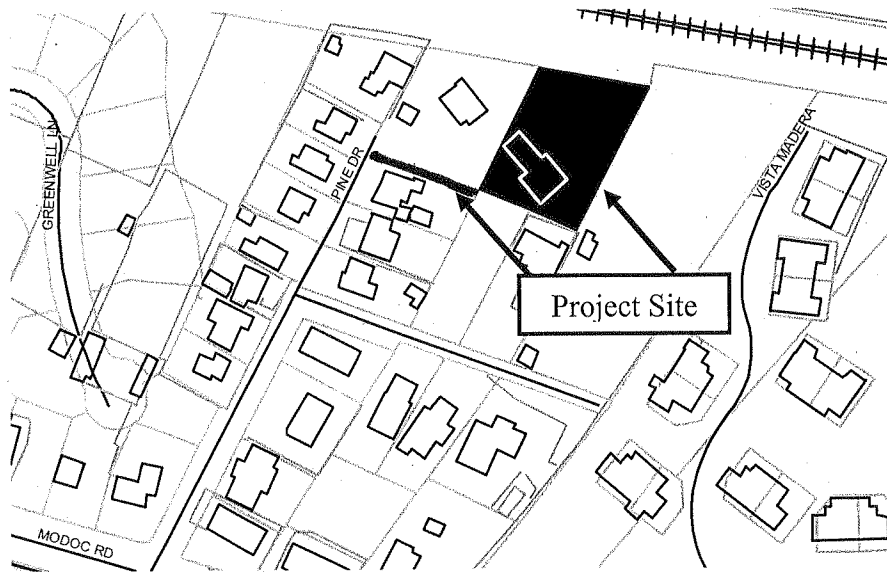
The project consists of a merger of two existing parcels and a subsequent subdivision to create two new parcels. Parcel A is an existing 20,839 square foot lot that contains one single family residence and a shed. Parcel B is an existing 1,942 square foot lot that serves as an access driveway for Parcel A. Both parcels have access from Pine Drive along a shared private road. The total lot area of both parcels is 22,781 square feet. After the subdivision, Parcel 1 would be 11,216 square feet and Parcel 2 would be 11,565 square feet.

The discretionary applications required for this project are:

1. A Modification to allow Parcel 1 to have no street frontage instead of the required 60 feet or less than the required 60 feet if the private portion of Pine Drive becomes public (SBMC§28.15.080);
2. A Modification to allow Parcel 2 to have no street frontage instead of the required 60 feet. (SBMC§28.15.080);
3. A Public Street Waiver to allow the approval of a subdivision where access is provided by a private road that serves more than two lots (SBMC § 22.60.300); and
4. Tentative Subdivision Map for a merger of two lots and a subdivision to create two lots (SBMC§27.07).

### **II. RECOMMENDATION**

The proposed project conforms to the City's Zoning Ordinance and policies of the General Plan; therefore, Staff recommends that the Planning Commission approve the project, making the findings outlined in Section VI of this report, and subject to the conditions of approval in Exhibit A.



**Vicinity Map for 40 Pine Drive**

**APPLICATION DEEMED COMPLETE:** December 21, 2005  
**DATE ACTION REQUIRED PER MAP ACT:** March 11, 2006

### **III. SITE INFORMATION AND PROJECT STATISTICS**

#### **A. SITE INFORMATION**

Applicant:	Brent Daniels, L and P Consultants	Property Owner:	Justin and Michelle Pawl
Parcel Number:	049-100-019	Total Lot Area:	22,781 square feet
General Plan:	Residential, 5 units per acre	Zoning:	E-3/PUD, One Family Residence/ Planned Unit Development
Existing Use:	Single Family Residence	Topography:	Varies (see below)
Adjacent Land Uses:			
North: Railroad/ Highway		East: Single Family Residential	
South: Single Family Residential		West: Single Family Residential	



**B. PROJECT STATISTICS**

Existing	Lot Area	Average Slope
Parcel A	20,839 square feet	11 %
Parcel B	1,942 square feet	12.9 %
Total	22,781 square feet	
Proposed	Lot Area	Average Slope
Parcel 1	11,216 square feet	6.87 %
Parcel 2	11,565 square feet	13.94 %
Total	22,781 square feet	

**IV. PROJECT DESCRIPTION**

The project site consists of two parcels totaling 22,781 square feet in the E-3/PUD, One Family Residence and Planned Unit Development zones. Parcel A is an existing 20,839 square foot lot with one single family residence and a shed. Parcel B is an existing fifteen foot wide, 1,942 square foot lot that serves as an access driveway for Parcel A. Both parcels have access from Pine Drive along a private road.

The proposal consists of a merger of the two existing parcels and a subsequent subdivision to create two new parcels. The subdivision would result in one 11,216 square foot parcel (Parcel 1) and one 11,565 square foot parcel (Parcel 2). The existing single-family residence would be on Parcel 1 and a two-car garage would replace a dilapidated carport that was removed by the new owners. Although no development is currently proposed for Parcel 2, a building envelope is shown on the Tentative Parcel Map to illustrate how a single-family residence and a two-car garage could be accommodated on the site.

**V. ISSUES**

**A. ZONING ORDINANCE CONSISTENCY**

The proposed subdivision would meet the requirements of the E-3/PUD, One Family Residence/ Planned Unit Development Zone, with the exception of the requirement that each newly created parcel have not less than sixty feet (60') of frontage on a public street; therefore, a street frontage Modification is required for each parcel. Currently, neither parcel has street frontage. Even if the shared private road were to become a public street (see private road discussion below), Parcel 1 would have only 15' of street frontage, which is less than the 60' minimum requirement.

In the E-3 zone, parcels that have an average slope under 10% require a minimum of 7,500 square feet of lot area. Parcels that have an average slope of 10% up to and including 20%

require 1.5 times the minimum lot area, or 11,250 square feet. Both Parcels 1 and 2 would meet the lot area requirements. Parcel 1, with an average slope of 6.87% and a lot area of 11,216 square feet, exceeds the minimum requirement of 7,500 square feet. Parcel 2, with an average slope of 13.94% and a lot area of 11,565 square feet, exceeds the minimum requirement of 11,250 square feet.

Parcels that are classified in a PUD zone are also classified in an A, E or R-1 base zone. If a PUD development is not proposed, any use that is permitted in the base zone (i. e. single-family residence) would be allowed on such parcels when the base zone requirements are met. A Planned Unit Development is not required. As stated previously, the proposed subdivision meets all the requirements of the Zoning Ordinance except for minimum street frontage.

#### **B. GENERAL PLAN COMPLIANCE**

A Tentative Subdivision Map is required to be consistent with the City's General Plan.

*Land Use Element:* The Land Use Element of the General Plan describes the project site as being located in the Westside neighborhood of the City. The Westside neighborhood consists primarily of single-family residences except for the area located between Highway 101 and San Andres Street where the General Plan calls for a density of twelve units to the acre. The proposed subdivision, which complies with the E-3 zone, is also consistent with the General Plan density of five dwelling units to the acre. The proposed parcel sizes are consistent with those in the surrounding neighborhood, which is developed with a mix of one and two-story single-family residences.

#### **C. PRIVATE ROAD/ PUBLIC STREET**

Access to the project site from Pine Drive is along a private road. Parcels on each side of the private road have a ten foot wide access easement, resulting in a paved area that is approximately twenty feet wide. Currently, the road is in need of repair; therefore, Staff recommends a condition of approval that requires the applicant to repave the private road. Once the private road is repaved, Staff would support an application to make it a public street if all of the property owners with an interest in the private road supported the application. As shown in the applicant letter, some minor encroachments would be required to be removed as part of the conversion to a public street.

Also, there are public utilities located underneath the private road. By having this private road become a public street, the City would be able to properly protect the underground utilities and would be responsible for any future repair and maintenance of the road. The applicant, with the assistance of Staff, has prepared a letter to distribute to the owners of the parcels that have access over this private road (see Exhibit D).

The Fire Department has determined the proposed fire access to be sufficient even though the existing driveway (Parcel B) is fifteen feet wide instead of the required sixteen feet, as long as all new structures on the parcels will have fire sprinkler systems and will be within 500 feet of a fire hydrant. Also, due to the lack of a turnaround area at the end of the private road, the Fire Department is requiring the dedication of an easement over the first forty-four feet of Parcel 1

for emergency access purposes. This easement dedication is shown on the Tentative Subdivision Map.

#### **D. PUBLIC STREET WAIVER**

In addition to a street frontage Modification, a public street waiver would be required to allow the approval of a subdivision where access is provided by a private road that serves more than two lots. This waiver is required only if the private road does not become a public street.

#### **E. ENVIRONMENTAL REVIEW**

*Noise:* According to the City's Master Environmental Assessment (MEA), the project site is located in an area of greater than 65 dBA (decibels) noise contour, with the primary noise source being the adjacent railroad and highway. During review of the project, an acoustical analysis was required in order to determine whether the noise levels can be mitigated to meet the City's requirement of 45 dbA for interior spaces and 60 dB(A) for exterior spaces. A report prepared by Davey & Associates dated March 2005, concluded that, with appropriate construction materials such as glazing, the interior noise level of a new residence on Parcel 2 would be less than 45 dbA. The report further states that all exterior living areas, such as decks and balconies, should be located on the south side of any proposed residence on Parcel 2. The applicant has incorporated the recommendations of the acoustical report into their project description. A recorded condition of approval will give future owners notice of the acoustical requirements.

*Conclusion:* Staff has determined that the project is exempt from further environmental review pursuant to California Environmental Quality Act Guidelines Sections 15315 (Minor Land Divisions).

### **VI. FINDINGS**

The Planning Commission finds the following:

#### **A. STREET FRONTAGE MODIFICATION (SBMC§28.15.080)**

To approve a modification for a parcel to have no street frontage, or less than the required street frontage, it must be found that the modification is consistent with the purposes and intent of the Zoning Ordinance and that it is necessary to secure an appropriate improvement on a lot, prevent unreasonable hardship, or promote uniformity of improvement.

The existing parcels currently do not have public street frontage and given their location, the required street frontage could not be attained. If the private road were to become a public street, Parcel 1 would have public street frontage, although it would be less than the required minimum width. Staff is supportive of the street frontage Modification because the two existing parcels currently do not have street frontage, it is necessary in order to secure an appropriate improvement, and there is the potential that the private road could become a public street.

**B. PUBLIC STREET FRONTAGE WAIVER (SBMC§22.60.300)**

1. The private road will provide adequate access to the subject property and other properties using said roadway.
2. The private road and adjacent paved areas will provide adequate access for fire suppression vehicles as required by applicable fire regulations, including but not limited to turnaround area, width, grade and construction.
3. There is adequate provision for maintenance of the proposed private road by either of the following:
  - a. There is a recorded agreement that provides for adequate maintenance of said road, or
  - b. The owner of the subject property has agreed to adequately maintain said private road and said agreement has been or will be recorded prior to recordation of the parcel map.
4. The waiver is in the best interests of the City and will improve the quality and reduce the impacts of the proposed development.

**C. TENTATIVE SUBDIVISION MAP FINDINGS (SBMC§27.07.100)**

The proposed Tentative Subdivision Map is consistent with the General Plan and the Zoning Ordinance. The site is physically suitable for the proposed development and the density of development. The development is not likely to cause substantial environmental damage or serious public health problems nor conflict with easements, acquired by the public at large, for access through or use of property within the proposed development.

Exhibits:

- A. Conditions of Approval
- B. Tentative Parcel Map
- C. Applicant's letter dated December 12, 2005
- D. Letter to neighbors dated February 24, 2006